

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SPECTRUM DIVERSIFIED DESIGNS, LLC)	CASE NO. 1:17-cv-2656
675 Mondial Parkway)	
Streetsboro, OH 44241,)	JUDGE
)	
Plaintiff,)	
)	
v.)	COMPLAINT FOR PATENT
)	INFRINGEMENT
DANNY’S WORLD WIDE WHOLESALE, LLC)	
1701 Northfield Dr.)	DEMAND FOR JURY TRIAL
Rochester Hills, MI 48309,)	
)	
Defendant.)	

Plaintiff Spectrum Diversified Designs, LLC, (“Spectrum”) for its Complaint against Defendant Danny's World Wide Wholesale (“Danny’s World”), alleges as follows:

I. PRELIMINARY STATEMENT

1. This is an action for infringement arising under the patent laws of the United States, Title 35, United States Code.

II. JURISDICTION AND VENUE

2. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Personal jurisdiction over Danny’s World is proper in this district because Danny’s World is an online based company serving the entire United States and has a regular and established place of business in this district through its continuous, systematic, and substantial presence within this district by regularly doing and soliciting business and deriving revenue from goods provided to individuals in this district online and otherwise, including but not limited to selling its 35 Pod Coffee Holder (“infringing product”) to consumers in this district

and selling into the stream of commerce knowing such product would be sold in Ohio and this district, which acts form a substantial part of the events giving rise to Spectrum's claim.

4. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b).

III. PARTIES

5. Spectrum is a limited liability company formed under the laws of Delaware with its principal place of business at 675 Mondial Parkway, Streetsboro, OH 44241.

6. Upon information and belief, Danny's World is a limited liability company formed under the laws of Michigan with a principal place of business at 1701 Northfield Dr. Rochester Hills, MI 48309.

IV. FACTUAL BACKGROUND

7. United States Design Patent Number D656,794 ("D794 patent"), entitled "DRINK POD HOLDER" was duly and legally issued on April 3, 2012, and names Sheldon H. Goodman and Elizabeth A. Cho as the inventors. A true and correct copy of the D794 patent is attached as Exhibit 1.

8. The D794 patent claims the ornamental design for a drink pod holder.

9. Spectrum is the owner by assignment of the entire right, title, and interest in the D794 patent.

10. Spectrum is engaged in the business of designing, manufacturing, and selling products, many of which are houseware items.

11. Spectrum sells a single cup coffee caddy, known as the ScrollTM 35-Pod Coffee Caddy, ("Scroll Caddy") that is covered by the D794 patent. Since issuance of the D794 patent, Spectrum has marked its Scroll Caddy in compliance with 35 U.S.C. § 287.

12. Danny's World infringed the D794 patent by making, using, selling, and offering for sale in the United States and importing into the United States Danny's World's infringing product shown herein.

13. On May 2, 2017, counsel for Spectrum sent Danny's World a cease and desist letter notifying Danny's World that it was infringing the D794 patent by selling the infringing product, including through online retailer Amazon.

14. Upon information and belief, Danny's World has known of the existence of the D794 patent, and its acts of infringement have been willful and in disregard for the D794 patent, without any reasonable basis for believing that it had a right to engage in the infringing conduct. Spectrum has marked its Scroll Caddy in compliance with 35 U.S.C. § 287, and Danny's World has had knowledge of the D794 patent since at least April 24, 2016, when previous counsel for Spectrum informed Danny's World of the infringement.


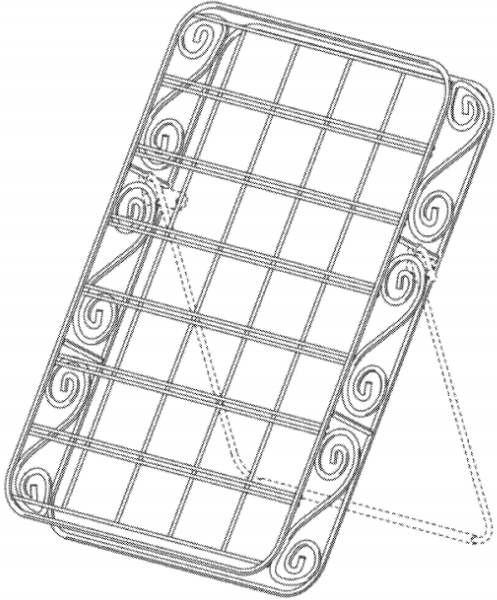
15. Danny's World's acts complained of herein have caused Spectrum to suffer irreparable injury to its business. Spectrum will continue to suffer substantial loss and irreparable injury unless and until Danny's World is enjoined from its wrongful actions complained of herein.

V. CLAIM FOR PATENT INFRINGEMENT

16. Spectrum repeats and re-alleges paragraphs 1 through 15 hereof, as if fully set forth herein.

17. Danny's World infringed the D794 patent by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, including within this judicial district, coffee pod holders having a design that would appear to an ordinary

observer to be substantially similar to the claim of the D794 patent, including, for example, Danny's World's 35 Pod Coffee Holder, as shown below.

Infringing Product	Spectrum's Patent U.S. Patent No. D656,794
	

18. Danny's World's infringement was knowing, intentional, and willful.

19. As a direct and proximate result of Danny's World's acts of infringement, Danny's World has derived and received gains, profits, and advantages in an amount that is not presently known to Spectrum.

20. Danny's World's acts of infringement of the D794 patent have caused Spectrum damage for which Spectrum is entitled to compensation pursuant to 35 U.S.C. § 284 including Spectrum's lost profits.

21. This case is exceptional and, therefore, Spectrum is entitled to an award of attorneys' fees pursuant to 35 U.S.C. § 285.

22. Spectrum is additionally entitled to Danny's World's total profits from Danny's World's infringement of the D794 patent pursuant to 35 U.S.C. § 289.

WHEREFORE, Spectrum requests judgment against Danny's World as follows:

A. Adjudging that Danny's World has infringed the D794 patent in violation of 35 U.S.C. § 271;

B. Granting a preliminary and permanent injunction enjoining Danny's World, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all of those in active concert and participation with any of the foregoing persons or entities from infringing the D794 patent;

C. Ordering Danny's World to account and pay damages adequate to compensate Spectrum for Danny's World's infringement of the D794 patent, with pre-judgment and post-judgment interest and costs pursuant to 35 U.S.C. § 284;

D. Ordering that Danny's World's infringement was willful and awarding enhanced damages up to three times the actual amount assessed pursuant to 35 U.S.C. § 284;

E. Ordering Danny's World to account for all gains, profits, and advantages derived by Danny's World's infringement of the D794 patent in violation of 35 U.S.C. § 271, and to pay Spectrum all damages suffered by Spectrum and/or Danny's World's total profit from such infringement pursuant to 35 U.S.C. § 289;

F. Declaring this case exceptional and awarding Spectrum its reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and

G. Awarding such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated: December 20, 2017

s/Patrick Clunk

Jay Campbell (0041293)

Patrick Clunk (0083650)

David Bernstein (0093955)

TUCKER ELLIS LLP

950 Main Avenue

Suite 1100

Cleveland, OH 44113-7213

Telephone: 216.592.5000

Facsimile: 216.592.5009

E-mail: jay.campbell@tuckerellis.com

patrick.clunk@tuckerellis.com

david.bernstein@tuckerellis.com

*Attorneys for Plaintiff Spectrum Diversified
Designs, LLC*

DEMAND FOR JURY TRIAL

Plaintiff Spectrum Diversified Designs, LLC, hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

Dated: December 20, 2017

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Tucker Ellis LLP

950 Main Avenue

Suite 1100

Cleveland, OH 44113-7213

Tel: 216.592.5000

Fax: 216.592.5009

E-mail: jay.campbell @tuckerellis.com

patrick.clunk@tuckerellis.com

david.bernstein@tuckerellis.com

*Attorneys for Plaintiff Spectrum Diversified
Designs, LLC*